

VZCZCXYZ0003  
PP RUEHWEB

DE RUEHPE #1805/01 1382218  
ZNR UUUUU ZZH  
P 182218Z MAY 07  
FM AMEMBASSY LIMA  
TO RUEHC/SECSTATE WASHDC PRIORITY 5545  
INFO RUEHAC/AMEMBASSY ASUNCION PRIORITY 1652  
RUEHBO/AMEMBASSY BOGOTA PRIORITY 4671  
RUEHBU/AMEMBASSY BUENOS AIRES PRIORITY 2893  
RUEHCV/AMEMBASSY CARACAS PRIORITY 0402  
RUEHLP/AMEMBASSY LA PAZ MAY 4234  
RUEHMN/AMEMBASSY MONTEVIDEO PRIORITY 9174  
RUEHQT/AMEMBASSY QUITO PRIORITY 1225  
RUEHSG/AMEMBASSY SANTIAGO PRIORITY 1288  
RUEHGL/AMCONSUL GUAYAQUIL PRIORITY 4407  
RUCPDO/DEPT OF COMMERCE WASHINGTON DC PRIORITY  
RUEHC/DEPT OF LABOR WASHINGTON DC PRIORITY  
RHMFIUU/CDR USSOUTHCOM MIAMI FL PRIORITY

UNCLAS LIMA 001805

SIPDIS

SENSITIVE  
SIPDIS

E.O. 12958: N/A  
TAGS: [EMIN](#) [ELAB](#) [EINV](#) [ENRG](#) [PGOV](#) [ECON](#) [PE](#)  
SUBJECT: MINING STRIKE ENDS BUT CHALLENGES REMAIN

Sensitive But Unclassified, Please Handle Accordingly

11. (SBU) Summary: The recent strike by the National Federation of Mining, Metallurgy, and Steel Workers ended after the government promised to create a national commission, headed by the Minister of Labor, to address issues raised by the union. In public, union leaders declared victory and noted that the GOP had already begun plans to implement a Supreme Decree that tightens restrictions on the use of sub-contractors in the mining sector, a key union demand. In private, union officials and MOL insiders admit that resolving long-standing and complicated union complaints within the 60 days set by the government is unlikely, in large part because the MOL lacks the capacity to investigate and punish violations of labor law. The GOP's inability to secure labor peace and regulate one of the best-paid union sectors underscores the challenges facing broader labor reforms and reflects the general suspicion that most unions have of the Garcia Administration.  
End Summary

-----  
The Problem with Subcontracting  
-----

12. (SBU) On April 30, the mining union announced an indefinite strike and predicted more than 80,000 of the its 120,000 workers would take to the streets to demand a larger share of end-of-year bonuses, increased funding for pensions, and an end to plans to increase the retirement age. The union's central demand, however, was for mining companies to reduce the number of sub-contractors employed in core mining activities. Union leaders claimed that between 40 to 70 per cent of mine workers are sub-contractors who lack both the labor benefits provided full-time workers and the right to become union members. Union officials have long maintained that extensive sub-contracting violates the spirit and letter of the law, in particular Supreme Decree 003-2002-TR, which prohibits subcontracting in the "principal activity" of a mining concern. Spokesmen for mining companies dispute these figures and insist the use of sub-contractors is in accord with Peruvian law.

13. (SBU) The strike quickly fizzled. Less than one-fourth of union members participated, and then only sporadically,

and the protests never garnered the national attention the union sought. Commentators pointed out that the strike was poorly timed -- it was announced over a three day weekend -- and the mining union lacks the political clout it had five years ago. Union officials blamed the failure on ongoing contract negotiations at several key mining sites, which drew the attention of union members away from the strike. After five days of desultory protests, the union grabbed the GOP's offer of mediation.

¶4. (SBU) The GOP also undercut the rationale for the strike by issuing Supreme Decree 008-2007-TR on April 27, which further defines the principal and complementary activities of mining companies. Principal activities are the productive processes indispensable to the functioning and development of the business; complementary activities are unconnected to the core function and include security, marketing, and cleaning services. Sub-contracting is permitted only in complementary work. The AFL-CIO's Lima-based labor center called the decree one of the most important changes in labor legislation in the past five years.

-----  
The Problem with Enforcement  
-----

¶5. (SBU) Most observers doubt the government's ability to enforce the law. One problem is the courts. Lima Labor Court President Javier Aravalo told Poloff that it takes, on average, five years for labor courts to resolve a union complaint -- and sometimes much longer. Aravalo said the Lima court knows how many cases are filed each year, but lacks the technology to determine what kinds of cases are filed or how the cases are resolved. A second problem is the MOL's weak investigative capacity. Working-level contacts at the MOL told Poloff that they do not know what percentage of mining workers are sub-contractors, and the ministry lacks sufficient inspectors to collect and track this data. The same contacts said that, until recently, travel and per diem expenses of government inspectors were paid by mining companies.

¶6. (SBU) Union officials remain skeptical about how serious the Garcia administration is about improving labor conditions. Minister of Labor Pinilla announced in August 2006 that the MOL would double the number of labor inspectors to 500 by December 2006, but as of April 2007, the Labor Inspectorate had only 235 inspectors. On May 1, the government launched the National Plan to Combat Forced Labor, touted by Pinilla as a comprehensive effort to end forced labor. Critics pointed out that the plan was a rehash of a 2005 report and contained no provisions to fund a nationwide survey to document the extent of the problem. Organized labor leaders claim the MOL retains an anti-union bias: in 2004, for example, the MOL declared 104 out of 107 strikes illegal; in 2005, 63 out of 65; and in 2006, 65 out of 67. In response to these criticisms, MOL officials say unions frequently fail to complete the necessary paperwork on time. The most recent mining strike also was declared illegal.

-----  
Challenges Remain  
-----

¶7. (SBU) Comment: The issues raised by the mining strike are similar to those surrounding the proposed General Labor Law (GLL). When the Labor Committee passed the GLL draft to the plenary on May 8 (septel), many commentators criticized it as attempting to legislate labor inflexibility. Minister Pinilla characterized the text, including its attempt to clarify language defining the use of sub-contractors in the labor force, as "hopelessly muddled." Even if the plenary resolves stubborn differences over the General Labor Law, many observers -- and most union leaders -- doubt the GOP's ability to enforce it. Skeptics believe President Garcia's interest in labor legislation is tied to his wish to see the Peru Free Trade Promotion Agreement approved by the U.S. Congress, and will wane after that happens. Others

acknowledge the difficulties of re-constituting a system of labor protections that has lain dormant for 15 years. Whatever the case, future conflict arising out of labor practices in the mining sector is almost inevitable. End  
Comment  
STRUBLE